

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



Date: November 1, 1999

TO: ALL LICENSEES AND EMPLOYEES OF:  
Adoption Agencies,  
Foster Family Homes,  
Foster Family Agencies,  
Small Family Homes,  
Transitional Housing Placement,  
Social Rehabilitation Facilities,  
Adult Day Care Facilities,  
Adult Day Support Facilities,  
Group Homes and,  
Adult Residential Facilities

FROM: MARTHA LOPEZ, Deputy Director  
Community Care Licensing Division  
California Department of Social Services

SUBJECT: IMPORTANT NEW BACKGROUND CHECK LAW CHANGES

This letter provides important information about a new background check law that directly affects all staff, volunteers, and employees of the above mentioned community care facilities. Please note that sections of the law take effect on two different dates.

Assembly Bill 1659 (AB 1659), Chapter 881, Statutes of 1999 was sponsored by the Department to reinstate various new background check requirements that were inadvertently chaptered out as a result of certain legislative activities last year. AB 1659 makes the following changes to the background check requirements in the California Community Care Facilities Act, Health and Safety Code Section 1522.

**The following changes become effective December 9, 1999.**

- Background checks are now required for any staff person, **volunteer**, or employee **who has any client contact**. *The statute previously did not include volunteers, and it only required persons with "frequent and routine" contact to be fingerprinted.*
- A volunteer in an Adult Residential Facility or Social Rehabilitation Facility is exempt from the background check requirement only if:

- ✓ the volunteer is a relative, significant other, or close friend of a client receiving care in the facility and
- ✓ he/she is not used to replace or supplant staff in providing direct care and supervision. *This is a new section in the statute.*
- The licensee is now required to maintain documentation of all individual clearances or exemptions available for inspection by the Department. *This is a new section in the statute.*
- Fingerprints must be submitted to the California Department of Justice (DOJ) **before** a person's employment, residence, or initial presence in the facility. *The statute previously allowed a licensee four days after a person began working to submit the person's fingerprints to the DOJ.*
- Licensees are subject to an **immediate \$100.00 Civil Penalty** for each person whose fingerprints were not submitted on time. *This is a new section in the statute.*
- Criminal convictions from another state or federal court will be considered as if the criminal offense was committed in California.
- A request to transfer an individual's criminal record clearance from one state licensed facility to another, must be submitted in writing to the appropriate licensing district office. The person who is seeking transfer must confirm their identity and include a copy of the person's California driver's license or a valid photo identification issued by another state or the United States government if the person is not a California resident. Additionally, the facility must submit the transfer request **before** the individual has client contact or the facility will be in violation of the law and subject to the \$100 civil penalty

If the licensee encloses a stamped self-addressed envelope for this purpose, the Department shall verify whether the individual has a clearance that can be transferred.

- When Livescan electronic fingerimaging system becomes “operational”, all applicants will be required to obtain a background check clearance or exemption before having any client contact. **The Department will provide a 30-day advance notice before this provision of the law is implemented.** We anticipate it will be several months before Livescan is fully operational based on the definition of the new law.

### **WHAT IS LIVESCAN?**

Livescan is an electronic fingerprint imaging process that eliminates the need to “ink-roll” an individual’s fingerprints. This process, known as “fingerimaging,” allows fingerprint images and personal information to be transmitted quickly, electronically, and accurately to DOJ. Livescan background checks are usually completed in three business days.

We encourage you to take full advantage of Livescan, however, **for an interim period of time fingerprint cards are still acceptable.** Livescan stations are located in Community Care Licensing District Offices and law enforcement offices throughout the state.

There is a Livescan processing fee that is equivalent to existing fees for ink rolled fingerprints. See the attached Livescan information sheet for further details.

**The following changes become effective January 8, 2000.**

- Beginning January 8, 2000, in addition to the California criminal record check and the Child Abuse Central Index check, for children's facilities, a Federal Bureau of Investigation (FBI) criminal record check will also be required for all new facility applicants, facility employees, and volunteers. This is *not* a retroactive requirement. The FBI check, which is also processed through DOJ, is required of anyone who must have a criminal background check.
- The issuance of a new license will not be delayed if:
  1. All other licensing requirements have been met and the FBI clearance is the only missing item, and
  2. Each individual has submitted a signed statement to the Department, as part of the application, that he/she has never been convicted of a crime in the United States, other than a minor traffic violation.
    - If the Department subsequently determines that a person has a criminal record the Department may then revoke or suspend the license or prohibit an individual's employment or presence in the facility.
- Subsequent to licensure, persons who are required to submit fingerprints prior to their employment, residence, or initial presence in the facility must also submit a second set of fingerprints for the purposes of searching FBI records.
  - A licensee who fails to submit the required two sets of fingerprints to DOJ prior to the person's employment, residence or initial presence in the facility shall be cited and assessed an immediate civil penalty of \$100 for each person whose prints were not submitted on time.

The Department will begin enforcing the first of these changes on December 9, 1999, and the FBI requirement on January 8, 2000. The licensing regulations are currently being revised to reflect this new law change. In the meantime, if you have any questions you may call Vincent Herrera, Central Operations Branch, Policy Analyst at (916) 322-5419.

Thank you for your cooperation in implementing this new state laws that directly affect you and your facility operations.

Attachment

## **COSTS FOR BACKGROUND CHECK PROCESSING**

The cost of the California DOJ criminal record check is ..... **\$42.00. \***

The cost of the FBI criminal record check is .....**\$24.00.**

The vendor fee for Livescan fingerprint processing in  
licensing district offices will be .....**\$14.00\*\***

Child Abuse Central Index (CACI) if required.....**\$15.00**

TOTAL                   **\$95.00**

\* The DOJ cost to process BID 7B fingerprint cards is \$52.00.

\*\* The Live Scan processing fee by agencies other than Community Care  
Licensing sponsored locations is determined by that agency and the costs will  
vary.